

# EXHIBIT A

Feb. 28. 2022 10:32AM

Kanawha Co. Circuit Clerk

No. 0959 P. 2

CASE 21-C-986 KANAWHA PAGE 1  
RUSSELL R. AKERS vs. DOW CHEMICAL COMPANY, A CORPOR

LINE DATE ACTION  
1 11/04/21 # CASE INFO SHEET; COMPLAINT; ISSUED SUM & 2 CPYS; F FEE; RCPT  
2 590249; \$200.00  
3 02/08/22 # LET FR SS DTD 2/4/22; SUM W/RET (2/4/22 SS) AS TO DOW CHEMICAL  
CO.

A TRUE COPY FEB 28, 2022  
TESTED  
CIRCUIT COURT KANAWHA COUNTY, WV  
CLERK  
J.P.

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2021 NOV -4 PM 1:10

RUSSELL R. AKERS  
Plaintiff,

CATHY S. GATSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

v.

CIVIL ACTION NO. 21-C-986

Judge Tabi

THE DOW CHEMICAL COMPANY,  
a corporation,  
Defendants.

v.

<u>Defendant</u>	<u>Days to Answer</u>	<u>Type of Service</u>
THE DOW CHEMICAL COMPANY	30	Secretary of State

Two copies attached

PYMT Type 2  
Rcpt # 910249 \$200 X \$135     
Iss. Sum. + 2 cc    No Sum. Iss     
X Ret. to Atty.    \$20cm X     
   Mailed CM/RM    \$5 clk X     
   Mailed to sos w/ck#     
   Sent to    w/ck#    \$15 mdf X

PLAINTIFF(s): RUSSELL R. AKERS

DEFENDANT(s) : THE DOW CHEMICAL COMPANY

II. TYPE OF CASE:

☒ General Civil      ☐ Adoption      ☐ Civil Appeal From Magistrate Court  
☐ Mass Tort Litigation      ☐ Mental Health      ☐ Miscellaneous Civil Petition  
☐ Guardianship/Conservatorship      ☐ Administrative Agency Appeal      ☐ Other \_\_\_\_\_

III. Jury Demand      ☒ Yes      ☐ No

Case will be ready for trial by (Month/Year) 11/1/22

IV. Do you or any of your clients or witnesses in this case require special Accommodations due to a disability? ☒ Yes      ☐ No  
If yes, please specify:

☒ Wheelchair accessible hearing room and other facilities  
☐ Interpreter or other auxiliary aid for the hearing impaired  
☐ Reader or other auxiliary aid for the visually impaired  
☐ Spokesperson for other auxiliary aid for the speech impaired  
☐ Other \_\_\_\_\_

Attorney Name: WALTON S. SHEPHERD, III      Representing:  
Firm:      ☒ Plaintiff      ☐ Defendant  
Address: P.O. Box 13249      ☐ Cross-Complaint  
Sissonville, WV 13249      ☐ Cross-Defendant  
Telephone: 304-984-3306  
Dated: \_\_\_\_\_

Signature: W. S. Shepherd, III

☐ Proceeding without an attorney

Office of the Secretary of State  
Building 1 Suite 157-K  
1900 Kanawha Blvd E.  
Charleston, WV 25305

USPS CERTIFIED MAIL™



9214 8901 1251 3410 0003 4525 26

THE DOW CHEMICAL COMPANY  
C. T. Corporation System  
5098 WEST WASHINGTON STREET  
SUITE 407  
CHARLESTON, WV 25313



**Mac Warner**  
Secretary of State  
State of West Virginia  
Phone: 304-558-6000  
886-767-8683  
Visit us online:  
[www.wvsos.com](http://www.wvsos.com)

**Control Number:** 287664

**Defendant:** THE DOW CHEMICAL COMPANY  
5098 WEST WASHINGTON STREET  
SUITE 407  
CHARLESTON, WV 25313 US

**Agent:** C. T. Corporation System

**County:** Kanawha

**Civil Action:** 21-C-986

**Certified Number:** 92148901125134100003452526

**Service Date:** 2/4/2022

I am enclosing:

**1 summons and complaint**

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your corporation.

*Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in the name and on behalf of your corporation as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.*

Sincerely,

Mac Warner  
Secretary of State



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Russell Akers

Plaintiff

v.

Case No. 21-C-986

Deo Chemical Company

Defendant

**SUMMONS**

To the above-named Defendant:

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to

serve upon W. H. S. Shepherd plaintiff's attorney,

whose address is P.O. Box 13249, Charleston WV 25360

an answer, including any related counterclaim you may have, to the complaint filed against you in

the above styled civil action, a true copy of which is herewith delivered to you. You are required

to serve your answer within 30 days after service of this summons upon you, exclusive

of the-day of service. If you fail to do so, judgment by default will be taken against you for the

relief demanded in the complaint and you will be thereafter barred for asserting in another action

any claim you may have which must be asserted by counterclaim in the above styled civil action.

Dated: 11-4-21

**Cathy S. Gatson, Clerk**  
CATHY S. GATSON, CLERK

By: M. D. D.  
Deputy Clerk

FILED  
mccoy  
2021 NOV -4 PM 1:10

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA  
CATHY S. GATSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

**RUSSELL R. AKERS,**  
**Plaintiff,**

v.

CIVIL ACTION NO. 21-C-986  
Judge Tabi

**THE DOW CHEMICAL COMPANY,**  
**a corporation,**  
**Defendant.**

### **COMPLAINT**

The Plaintiff Russell R. Akers for his Complaint does state as follows:

#### **I.**

That the Plaintiff was employed by the predecessor of the Defendant, Union Carbide Corporation, from January, 1977 until 1985, at which time the operation of the Defendant's predecessor was transferred to Chemical Leaman Tank Lines, Inc.

#### **II.**

That the Plaintiff was employed as a "tank cleaner" whose primary responsibility was the flushing out and removal of chemical components from rail tank cars at a site maintained by Defendant's predecessor located near Institute, Kanawha County, West Virginia.

III.

That the Defendant's predecessor maintained a hazardous workplace which on a daily basis endangered the health and well being of the Plaintiff and all of his co-workers.

IV.

That no protective gear in the form of hazmat suit or the like was provided to protect the Plaintiff and others against the exposure to such hazardous chemicals and to the potential adverse health effects resulting therefrom.

V.

That the Defendant went to several medical professionals and health care providers, including but not limited to Dr. Muhammad Omer Jamil, MD, who advised the Plaintiff that he suspected that the Plaintiff had pancreatic cancer.

VI.

That the Plaintiff had a medical procedure at "The James" at Ohio State University in Columbus, Ohio, on or about the 4<sup>th</sup> day of November, 2019, and that the suspected diagnosis of pancreatic cancer was confirmed on November 20, 2019.



VII.

That said Dr. Jamil further confirmed to the Plaintiff that the probable cause of the pancreatic cancer was the latent manifestation attributable to Plaintiff's prior exposure to one or more chemicals to which the Plaintiff and others were regularly and repeatedly exposed.

VIII.

That the Plaintiff has incurred hundreds of thousands of dollars in medical bills for his treatment which is ongoing as of the date of this Complaint, but that the Plaintiff is hopeful for a full recovery and eventual return to his normal life.


P R A Y E R

Wherefore, your Plaintiff does pray for the following relief:

1. That this Complaint be filed and served upon the Defendant.
2. That the Plaintiff be awarded such sums by means of a monetary award assessed against the Defendant in an amount commensurate with his debilitating pain, suffering and emotional distress endured by the Plaintiff and directly attributable to the gross negligence of his predecessor employer, Union Carbide Corporation, whose conduct rises to the threshold of a "Manolis" standard of tortious conduct.
3. That Plaintiff does demand a jury trial.

RUSSELL R. AKERS

BY COUNSEL

  
WALTON S. SHEPHERD, III (WVSB#3369)  
P. O. Box 13249  
Sissonville, WV 25360  
304-984-3306  
Counsel for Plaintiff